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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,741	08/15/2001	Edwin Frank Rejda	1734.041US1	1976

7590

06/14/2006

Paul T Dietz  
Seagate Technology LLC  
Intellectual Property Department -NRW097  
7801 Computer Avenue South  
Bloomington, MN 55435

EXAMINER
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MCDONALD, RODNEY GLENN

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/930,741

Applicant(s)

REJDA ET AL.

Examiner

Rodney G. McDonald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-10, 12-20, 30-32, 35, 37-40, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10, 12-18, 20, 30-32 and 35 is/are allowed.
- 6) ☒ Claim(s) 19, 37-40, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 19, 37, 38, 39-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19, lines 1 and 2, is indefinite because “a magneto resistive element selected from the plurality of magneto resistive elements” lacks antecedent basis. Claim 1 was amendment to include “a magneto resistive element” . It is suggested to write this phrase of Claim 19 as “ the magneto resistive element” for proper antecedent basis.

Claim 19, lines 3, is indefinite because “the property level measured” lacks antecedent basis. Claim 1 was amended to recite “the electrical resistance”. It is suggested to write this phrase of claim 19 as “the electrical resistance”.

Claim 37, lines 5 and 7, is indefinite because “element” should “elements”. Amended claim 30 requires “elements”.

Claim 38, line 3, is indefinite because “measured” lack antecedent basis. It is suggested to write this as “measured” since claim 30 from which is depends was amended to state “monitored electrical property level”.

Claim 39, line 7, is indefinite because it has been amended to state “the ion mill wafer process”. “The ion mill wafer process” lacks antecedent basis in the claims. It is suggested to write this as “an ion mill wafer process”.

Claim 46, line 3, has been amended to changed the dependence. Therefore in line 3 “measured” should be “monitored” as is required by the base claim.

***Allowable Subject Matter***

Claims 8-10, 12-18, 20, 30, 31, 32, and 35 are allowed.

Claims 19, 37, 38, 39, 40, 45, 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 8-10, 12-19 are indicated as being allowable over the prior art of record because the prior art of record does not teach an apparatus having a magneto resistive element and a mask including a first shutter, a second shutter and an actuator for moving the first and second shutter; a controller, wherein the controller is structured to monitor at least an electrical resistance of the magneto resistance element during ion milling of the magneto resistive element, further wherein the controller is structure to independently actuator each of the and second shutter based on the electrical resistance of the magneto resistive element.

Claim 20 is indicated as being allowable over the prior art of record because the prior art of record does not teach an apparatus having a mask having a plurality of shutters positioned adjacent the plurality of magneto resistive elements; and controller means for monitoring an electrical property level associated with the plurality of stripes and independently actuating each of the plurality of shutters based on each of the

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plurality of stripes electrical property level during the fabrication of each of the plurality of stripes.

Claims 30-32, 35, 37 and 38 are allowable over the prior art of record because the prior art of record does not teach an apparatus having elongated element including a plurality of magneto resistive elements held by the carrier; a mask including at least one shutter and an actuator for moving the at least one shutter, wherein the mask is used to selectively cover a first portion of the elongated element as an ion mill wafer process continues to act on a second portion of the elongated element, the ion mill wafer process substantially halting with respect to the first portion of the elongated element; and a controller, wherein the controller is structure to monitor an electrical property level of the elongated element, further wherein the controller is structure to independently actuate the at least one shutter based on the monitored electrical property level.

Claims 39, 40, 45 and 46 are allowable over the prior art of record because the prior art of record does not teach an apparatus having an elongated element held by the carrier, wherein the elongated element includes a plurality of magneto resistive elements; a mask including at least one shutter and an actuator for moving the at least one shutter, wherein the mask is used to selectively cover a first portion of the elongated element as an ion mill wafer process continues to act on a second portion of the elongated element, the ion mill wafer process substantially halting with respect to the first portion of the elongated element; and a controller for the actuator, the controller actuating the at least one shutter between an open position where the at least one

shutter is not covering a portion of the elongated element, and a covering position where the at least one shutter is covering the portion of the elongated element, in response to a monitored electrical resistance associated with at least one of the plurality of magneto resistive elements.

### ***Response to Arguments***

Applicant's arguments filed 3-38-06 have been fully considered.

The prior rejections in the prior office action have been overcome. Applicant has amended the claims to overcome such rejections. The remaining issues are the 35 U.S.C. 112 second paragraph rejections above. Upon Applicant's amendment of the claims Applicant has created a few antecedent basis issues in the claims. However upon correction of these issue the case will be in condition for allowance. The Examiner attempted to contact the Applicant to resolve the issues but failed to do so. Therefore it is believed such issues can be resolved in a formal written response.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rodney G. McDonald  
Primary Examiner  
Art Unit 1753

RM  
June 8, 2006